

Message Text

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ACTION DPW-01

INFO OCT-01 IO-14 ISO-00 OIC-04 CIAE-00 DODE-00 PM-07 H-03

INR-10 L-03 NSAE-00 NSC-10 PA-04 RSC-01 PRS-01 SPC-03

SS-20 USIA-15 SAM-01 ACDA-19 ABMC-01 DRC-01 /119 W

----- 058809

R 272104Z FEB 74

FM USMISSION GENEVA

TO AMEMBASSY SAIGON

INFO SECSTATE WASHDC 4315

SECDEF WASHDC

C O N F I D E N T I A L GENEVA 1307

FOR: STATE D/PW SIEVERTS; OSD/ISA SHIELDS

E.O. 11652: GDS

TAGS: PARM, ICRC

SUBJECT: LAW OF WAR CONFERENCE: U.S. PROPOSAL FOR NEW ARTICLE
ON MISSING AND DEAD

REF: (A) SAIGON 02523 (B) STATE 038389

1. REF B TRANSMITTED TEXT US DRAFT PROPOSED NEW ARTICLE AS
REQUESTED REF A. AT NETHERLANDS SUGGESTION IT IS NOW NUMBERED
ARTICLE 18 BIS.

2. FYI: FOLLOWING IS TEXT UK DRAFT WHICH HAS NOT YET BEEN
CIRCULATED TO WEO WORKING GROUP.

BEGIN TEXT ARTICLE 18 BIS

MISSING AND DEAD: GRAVES

1. EACH PARTY TO THE CONFLICT SHALL ENDEAVOR TO OBTAIN, AND KEEP
RECORDS OF, INFORMATION REGARDING THOSE PERSONS NOT ITS OWN
NATIONALS WHO HAVE BEEN CAPTURED OR OTHERWISE DETAINED BY IT IN
CONNECTION WITH THE CONFLICT AND IN RESPECT OF WHOM NO PROVISION
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IN THIS REGARD IS MADE IN THE CONVENTIONS.

2. EACH PARTY TO THE CONFLICT SHALL, TO THE FULLEST EXTENT POSSIBLE, PROPERLY MARK AND MAINTAIN GRAVES OR OTHER DISPOSITIONS OF THE REMAINS OF PERSONS NOT ITS OWN NATIONALS WHO HAVE DIED IN CONNECTION WITH THE CONFLICT, AND SHALL KEEP RECORDS OF THE LOCATION AND IDENTIFICATION OF SUCH GRAVES AND OTHER DISPOSITIONS.

3. AT ALL TIMES, AND BOTH BEFORE AND AFTER THE CESSATION OF ACTIVE HOSTILITIES, SUCH GRAVES AND OTHER DISPOSITIONS, TOGETHER WITH THEIR MARKINGS, SHALL BE RESPECTED AND SHALL BE PROTECTED AND MAINTAINED AGAINST DAMAGE, OBLITERATION AND IMPROPER DISTURBANCE; AND NO EXHUMATION SHALL BE CARRIED OUT WITHOUT THE PRIOR CONSENT OF THE STATE UPON WHOM SUCH DECEASED AT THE DATE OF HIS DEATH DEPENDED.

4. AFTER THE CESSATION OF ACTIVE HOSTILITIES BETWEEN THE PARTIES TO THE CONFLICT, THOSE HIGH CONTRACTING PARTIES IN WHOSE TERRITORY GRAVES OR OTHER DISPOSITIONS OF THE REMAINS OF PERSONS NOT ITS OWN NATIONALS WHO HAVE DIED IN CONNECTION WITH THE CONFLICT ARE SITUATED SHALL:

(A) IF SO REQUIRED BY THE STATE UPON WHOM SUCH DECEASED AT THE DATE OF HIS DEATH DEPENDED, FACILITATE THE RETURN TO THAT STATE OF THE REMAINS AND OF ANY PERSONAL EFFECTS OF SUCH DECEASED;

(B) PERMIT ACCESS TO SUCH GRAVES OR OTHER DISPOSITIONS BY REPRESENTATIVES OF THE OFFICIAL WAR GRAVES ORGANISATIONS OF THE STATES CONCERNED AND BY THE RELATIVES OF SUCH DECEASED;

(C) ENDEAVOUR TO ENTER INTO BILATERAL AGREEMENTS WITH THE STATES UPON WHOM SUCH DECEASED AT THEIR DATES OF DEATH DEPENDED, REGARDING PERMANENT ARRANGEMENTS FOR THE PROTECTION AND PROPER MAINTENANCE OF SUCH GRAVES AND OTHER DISPOSITIONS (AND FOR ACCESS TO THEM BY THE OFFICIAL WAR GRAVES ORGANISATIONS OF THE STATES CONCERNED AND BY THE RELATIVES OF THE DECEASED).

5. AFTER THE CESSATION OF ACTIVE HOSTILITIES, EACH PARTY TO THE CONFLICT SHALL ENDEAVOUR TO LOCATE AND OBTAIN INFORMATION CONCERNING PERSONS NOT ITS OWN NATIONALS WHO ARE MISSING.

6. INFORMATION SECURED OR RECORDED PURSUANT TO PARAGRAPHS 1, 2 AND CONFIDENTIAL

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5 OF THIS ARTICLE SHALL BE PROMPTLY TRANSMITTED TO THE STATE UPON WHOM SUCH DECEASED AT THE DATE OF HIS DEATH DEPENDED, EITHER DIRECTLY OR THROUGH THE PROTECTING POWER, THE INTERNATIONAL COMMITTEE OF THE RED CROSS, A NATIONAL RED CROSS (RED CRESCENT, RED LION AND SUN) SOCIETY, OR SOME OTHER IMPARTIAL HUMANITARIAN ORGANISATION.

7. TO FACILITATE THE OPERATION OF PARAGRAPHS 1, 2, 4(A) AND (B), 5,

AND 6 OF THIS ARTICLE, EACH HIGH CONTRACTING PARTY SHALL ENDEAVOUR TO MAKE PROPER MEANS OF IDENTIFICATION AVAILABLE TO ANY OF ITS NATIONALS WHO MAY BE IN AN AREA OF ARMED CONFLICT, AND WHO HAVE NOT BEEN ISSUED WITH AN IDENTITY CARD PROVIDED FOR UNDER THE CONVENTIONS.

8. THE PROVISIONS OF THIS ARTICLE ARE SUPPLEMENTARY TO THE OBLIGATIONS CONTAINED IN THE CONVENTIONS WITH REGARD TO THE MISSING AND THE DEAD, AND WITH REGARD TO GRAVES. END TEXT. DALE

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